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The CIA's open secrets

William Casey, the director of Central Intelligence, who has had troubles running his own agency, now wants to help edit The Washington Post and NBC News.

Casey has asked the Justice Department to prosecute NBC for a story about an espionage trial that began this week. He is also complaining about the Post's publication of similar information. The NBC item carried little information that had not previously been made public through court testimony or news reports.

By invoking a 1950 statute that bars disclosure of information about electronic eavesdropping – but that has never before been used against a news organization – the CIA director is pitting First Amendment freedoms against an exaggerated assertion of the government's right to impose official secrecy. He seems to forget that it his job, not the job of the press, to keep the nation's secrets.

If Attorney General Edwin Meese decides to take the case and prosecute, it will lead to an unneeded confrontation between the freedom of the press and the Reagan administration.

The statute Casey has invoked outlaws the publication of *any* classified information about the interception or encoding of secret communications. Other espidnage statutes at least require a show of intent to damage US interests. Under the statute Casey cites, the mere publication of classified information is illegal.

About 85 percent of modern intelligence-gathering is electronic spying, much of it involving the interception of communications. Casey wants a postwar statute aimed at spies stealing secrets to be applied as a weapon to keep the press – and the public – in the dark.

The press, which is generally as patriotic and common-sensical as the CIA, has often kept intelligence information secret when publishing it would harm the national interest. Such decisions weigh certain questions:

- Has the information been published before?
- How important is it?
- Who is the government trying to keep in the dark: a foreign power, such as the Soviet Union, or the US public?

The trial that began this week involves the practice of submarines creeping into Soviet waters to eavesdrop or plant listening devices. The US Navy has conducted such operations since the mid-'70s, when news articles described a bizarre incident in which a Soviet sub, returning to base, collided with a US sub lurking on the bottom of Vladivostok Harbor.

Ronald Pelton, who is charged with espionage in the trial, was an employee of the National Security Agency, which oversees technical intelligence. The Soviets obviously knew of the collision when it happened, and the sub's mission has been clear for a decade. Pelton appears to have given the Soviets additional detail, which may have allowed them to retrieve a piece of equipment, such as a listening device, or possibly to feed false information.

Under the statute Casey has invoked, the entire subject is declared off-limits to Americans, even though it appears that the Soviets knew about the operation. It is either absurd or sinister for the US government to hide from Americans information that the Soviets have already obtained. Yet this is what Casey is trying to accomplish.

Casey may not understand the Constitution, which he is sworn to uphold. Its First Amendment clearly states that "no law" abridges freedom of the press; it should not be necessary for Casey to blunder his way into court for that point to be proved.